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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RICHARD P. SHOVER, :
Plaintiff :
: CIVIL ACTION NO. 1:05-540
vs. :
: (JUDGE NEALON)
DAUPHIN COUNTY PRISON, : (MAGISTRATE JUDGE BLEWITT)
ET AL., :
Defendants :
:

ORDER

Plaintiff, currently a resident of the Dauphin County Work Release Center, amnd formerly an inmate at the dauphin County Prison, commenced this prisoner civil rights action by the filing of a complaint pursuant to 28 U.S.C. § 1983 on March 17, 2005. (Doc. 1). The matter was referred to United States Magistrate Judge Thomas M. Blewitt for initial consideration. Due to deficiencies in his original pleading, the Magistrate Judge ordered Plaintiff to amend his complaint. The amended complaint was filed on April 8, 2005, and alleged that, upon Plaintiff's arrival at the Dauphin County Prison in January, 2005, he was beaten by prison officials and subsequently denied medical care. (Doc. 8)

On June 15, 2005, Defendants filed a Motion for Summary Judgment and supporting materials (Docs. 12-14). Because Plaintiff failed to respond to the motion, and concern that Plaintiff may have been relocated from the Dauphin County Prison

to the Dauphin County Work Release Center, the Magistrate Judge ordered the Clerk of Court on July 14, 2005 to re-serve the summary judgment pleadings on Plaintiff at his new address and permitted him additional time to respond thereto. The time to file a responsive pleading to Defendants' motion passed without a response by Plaintiff. On August 12, 2005, Magistrate Judge Blewitt issued a Report and Recommendation in this matter, recommending that the Defendants' Motion for Summary Judgment be granted, finding the motion unopposed under Fed. R. Civ. P. 41(b) and M.D.Pa. LR 7.6. (Doc. 19). He also determined that Plaintiff had failed to exhaust his administrative remedies with respect to his Eighth Amendment claims and that these claims were procedurally defaulted.

No objections were filed to the Magistrate Judge's Report and Recommendation. After careful review and in the exercise of sound judicial discretion, the Court adopts the Magistrate Judge's Report and Recommendation.

ACCORDINGLY, THIS 8th DAY OF SEPTEMBER, 2005 IT IS HEREBY ORDERED THAT:

1. The Magistrate Judge's Report and Recommendation (Doc. 19) is ADOPTED.
2. Defendants' Motion for Summary Judgment (Doc. 12) is GRANTED.
3. Plaintiff's complaint (Doc. 8) is DISMISSED.
4. The Clerk of Court is directed to close this case.

5. Any appeal taken from this order will be deemed frivolous, without probable cause, and not taken in good faith.



United States District Judge